

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : **WOLF, Fred R. et al.**
SERIAL NO : 10/606,877
FILED : June 25, 2003
TITLE : METHOD OF IMPROVING ANIMAL TISSUE QUALITY BY
SUPPLEMENTING THE ANIMAL DIET WITH MIXED
TOCOTRIENOLS

Grp./A.U. : 1615
Examiner :
Conf. No. : 5242
Docket No. : P08096US00 - PHI 1437

RESPONSE OF NON-COMPLIANT APPEAL BRIEF (37 CFR 41.37)

Mail Stop APPEAL
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Assistant Commissioner:

In response to the Notification of Non-Compliant Appeal Brief mailed January 27, 2010, attached is the section of the brief "VI. Summary of Claimed Subject Matter", "A. Independent claim 1" and "B. Independent claim 20".

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

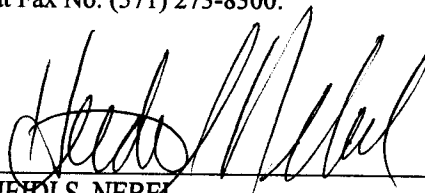
MAILING

☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Mail Stop APPEAL
Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450.

Date: 1/29/10

ELECTRONIC/FACSIMILE

☒ transmitted by electronic/facsimile to the Patent and Trademark Office, Art Unit 1615, APPEAL at Fax No. (571) 273-8300.


HEIDI S. NEBEL

VI. SUMMARY OF CLAIMED SUBJECT MATTER

A. Independent claim 1

Independent claim 1 relates to a method for improving the tissue quality of an animal. (see, e.g., Specification page 5 line 2 through page 7 line 10). The method comprises feeding the animal a diet comprising at least 150 ppm mixed tocotrienols. (Specification page 5 lines 10-14); (Specification, Examples 1-4, page 7 line 13 through page 31 line 8).

The mixed tocotrienols may be any mixture which contains at least three of the four known tocotrienols, which are alpha-, beta-, gamma-, and delta-tocotrienol. (Specification page 6 lines 13-16; page 3 lines 7-15). Tissue quality is measured by a number of criteria, including pH, color value, oxidative stability, and purge loss. (Specification page 6 lines 7-12). Furthermore, the diet may comprise a cereal grain crop genetically modified to have elevated mixed tocotrienol levels or oil from plant genetically modified to have elevated mixed tocotrienol levels. (Specification page 5 lines 2-9).

B. Independent claim 20

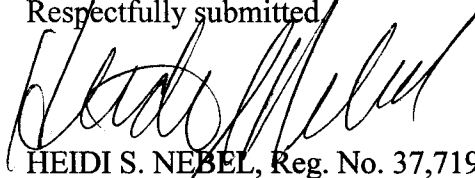
Independent claim 20 relates to a method for improving the tissue quality of an animal. (See, e.g., specification page 5 line 2 through page 7 line 10). The method comprises feeding the animal a diet comprising 50 ppm to 500 ppm mixed tocotrienols. (Specification page 5 lines 10-14; Specification, Examples 1-4, page 7 line 13 through page 31 line 8).

REMARKS

In response to the Notification of Non-Compliant Appeal Brief mailed January 27, 2010, attached is the section of the brief "VI. Summary of Claimed Subject Matter", "A. Independent claim 1" and "B. Independent claim 20" as requested. No other changes have been made.

No fees or extensions of time are believed to be due in connection with this paper; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



HEIDI S. NEBEL, Reg. No. 37,719
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 27142

Attorneys of Record

- HSN/pw -